

Amendment and Response to Non-Final Office Action
Appl. No.: 09/855,340

Remarks:

Claims 1, 6, 8-17 and 24-26 are pending. Reconsideration of the claims is requested. The amendment to claim 25 makes only a minor, formal change which clearly does not add any new matter. No new matter has been added to the application.

June 28, 2006 Telephone Interview. Applicants thank Examiner Schlapkohl for conducting a telephone interview with the undersigned on June 28, 2006. During the interview, it was agreed that the amendments to the figure legends set forth herein would obviate the objection to the drawings. It was also agreed that the rejection under 35 U.S.C. § 102(e) would be withdrawn in view of the enclosed declaration under 37 C.F.R. § 1.131.

Drawings. The drawings are objected to because figures 4 and 5 do not include the labels (a)-(d) which are mentioned in the figure descriptions. The examiner has required submission of a replacement set of drawings containing the labels. Applicants submit that submission of replacement drawings is unnecessary in view of the instant amendment to the specification and this point was agreed to during the interview. The amendment changes the figure descriptions to make reference to the "first", "second", "third" and "fourth" sequences instead of to "(a)", "(b)", "(c)" and "(d)".

As agreed to during the interview, withdrawal of the objection is requested.

Claim Objections. Claims 18 and 25 are objected to for alleged informalities. The objection with respect to claim 18 is moot since the claim has been cancelled. The examiner alleged that the claims, when referring back to a vector, should refer to "the vector" and not "a vector". Applicants disagree on the ground that there is no such rule or requirement requiring such claim format. Indeed, the examiner

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has not cited such a rule. In any event, solely for the purpose of expediting prosecution of the claims, applicants have amended claim 25 as suggested by the examiner.

Withdrawal of the claim objection is requested.

Provisional Obviousness-Type Double Patenting. Claims 18 and 21 stand rejected for provisional obviousness-type double patenting. The rejection is moot since the claims have been cancelled.

Claim rejections under 35 U.S.C. § 102(e). Claims 1, 6, 8-18, 21 and 24-26 stand rejected as allegedly anticipated by Hosted et al. (US2004/0101832 and USP 6,861,513). The examiner found the comments in the previously submitted office action response unpersuasive because the declaration under 37 C.F.R. § 1.131 did not assert that the work described therein was performed in the U.S.A. The examiner also stated that submission of another such declaration making this assertion would be sufficient to overcome the rejection. Enclosed is a declaration under 37 C.F.R. § 1.131 which is essentially identical to that submitted in the previous response but for a statement in paragraph 1 that the work described therein was performed at the Schering-Plough Research Institute at Kenilworth, NJ USA.

Applicants submit that, in view of the enclosed declaration and the comments made previously, the rejection of the claims for anticipation should be withdrawn. Such action is requested.


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Conclusion

The claims are in condition for allowance. Such action is earnestly solicited.

Respectfully submitted,

July 18, 2006
Date


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